

REMARKS

In the non-final Office Action, the Examiner rejects claims 1, 3, 13, and 77-86 under 35 U.S.C. § 103(a) as unpatentable over NISHIMURA et al. (U.S. Patent No. 6,381,244) in view of NAKAGAWA (U.S. Patent No. 6,144,635); objects to claims 4, 6, 8, and 10 as allowable if rewritten into independent form; and allows claims 12, 14, and 15-26. Applicant respectfully traverses the rejection under 35 U.S.C. § 103(a).

Applicant notes with appreciation the indication that claims 12, 14, and 15-26 are allowed and that claims 4, 6, 8 and 10 would be allowable if rewritten into independent form to include all of the features of the base claim and any intervening claims.

Claims 1, 3, 13, and 77-86 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over NISHIMURA et al. in view of NAKAGAWA. Applicant respectfully traverses this rejection.

Applicant respectfully submits that NAKAGAWA does not qualify as prior art under 35 U.S.C. § 103(a). 35 U.S.C. § 103(c) qualifies 35 U.S.C. § 103(a) and states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

NAKAGAWA qualifies as prior art under 35 U.S.C. § 102 only under subsection (e). The present application and the NAKAGAWA patent were, at the time the invention of the present application was made, owned by or subject to an obligation of assignment to NEC Corporation. The NAKAGAWA patent was assigned to NEC Corporation and recorded at Reel 008687, Frame 0003 on July 10, 1997. The present application contains an assignment, dated

December 27, 2000, from the inventor to NEC Corporation, which has been recorded at Reel 011500, Frame 0353. Accordingly, the NAKAGAWA patent is not available to preclude patentability under 35 U.S.C. § 103(a).

Applicant submits that claims 1, 3, 13, and 77-86 are patentable over NISHIMURA.

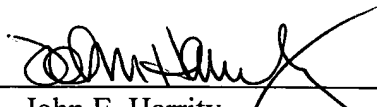
For at least the foregoing reasons, Applicant submits that the rejection of claims 1, 3, 13, and 77-86 under 35 U.S.C. § 103(a) based on NISHIMURA et al. and NAKAGAWA is improper. Applicant respectfully requests that the rejection be withdrawn.

In view of the foregoing remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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